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June 25, 2014

United States Attorney
Eastern District of New York
610 Federal Plaza
Central Islip, NY 11722
Attn: Saritha Komatireddy
Assistant U.S. Attorney

RE: United States v. Philip Kenner & Tommy C. Constantine
Docket Number: 13-CR-607 (JFB)

Dear Ms. Komatireddy:

Under her cover letter of June 18, 2014, Assistant United States Attorney Carrie N. Capwell forwarded copies of three grand jury transcripts which I received on June 20, 2014. By responsive letter, dated June 23, 2014, I expressed my appreciation of her “usual professionalism and integrity” in providing me copies of the transcripts which I regard as constituting Brady material. The copies of the grand jury transcripts, however, did not include copies of the grand jury exhibits which were marked and shown to the witnesses for authentication and inquiry. Accordingly, kindly provide copies of these grand jury exhibits in furtherance of Ms. Capwell’s disclosure of material “helpful” to the defense.

I am also requesting identification in the form of F.R. Crim. P. 16 disclosure of the documents allegedly created by the defendants which contained “forged signatures” or were otherwise “fictitious” as claimed in Ms. Capwell’s letter, dated November 13, 2013, to Judge Bianco requesting pre-trial detention. Inasmuch as the defendant has an obligation under subdivision (b)(1)(C) of F.R. Crim. P. 16 to disclose expert witness testimony, it is impossible to engage a handwriting or other expert to examine the purported forged and fictitious documents without such identification. Given the sheer volume of Rule 16 disclosure provided to date, the defendant should not be required to “guess” as to the forged and fictitious documents and early identification by the government will serve to move the matter forward to trial expeditiously.

Very truly yours,

/s/ Richard D. Haley

RICHARD D. HALEY

cc: AUSA James Miskiewicz
Joseph Conway, Esq.

